

### **AT&T's Proposed Use/Commingling Restriction Rule**

- (1) *Application* - This rule applies in all circumstances in which a requesting carrier is otherwise entitled to purchase loop, transport and related functionalities as unbundled network elements.
- (2) *Commingling restrictions prohibited* - An incumbent LEC may not prohibit a requesting carrier from commingling, interconnecting or otherwise combining, on any incumbent LEC network facility or equipment, unbundled network elements purchased at TELRIC-based rates with services that are provided through the use of other incumbent LEC-provided services or network elements purchased at non-TRILIC-based rates.
- (3) *No use restrictions on newly ordered combinations* - An incumbent LEC may not impose restrictions on a requesting carrier's use of any newly ordered loop-transport combination of unbundled network elements (including any associated multiplexing) purchased at TELRIC-based rates to provide any telecommunications service.
- (4) *No use restrictions on standalone network elements; immediate conversion of such elements permitted* - Incumbent LECs may not impose restrictions on a requesting carrier's use of any standalone loop or transport element (including associated multiplexing) as an unbundled network element purchased at TELRIC-based rates to provide any telecommunications service. An incumbent LEC shall accept and promptly process a requesting carrier's order to convert to unbundled network elements purchased at TELRIC-based rates any such functionalities that may previously have been ordered or provided as a special access service.
- (5) *Immediate conversions to element combinations permitted* - An incumbent LEC may not decline a requesting carrier's order to convert an existing special access arrangement to a combination of unbundled network elements (including associated multiplexing) at TELRIC-based rates in any of the following circumstances:
  - a. If the combination is used to extend a customer's loop to a requesting carrier's serving office, node, collocation, or other location, provided that the terminus of the combination is not solely an interexchange carrier point of presence, typically as defined by an applicable 11-character CLLI code in the requesting carrier's interstate tariff, service guide or equivalent;

- b. If the combination is used to originate or terminate traffic (i) on a switch that employs other than circuit switch technology or (ii) upon a circuit switch that delivers class 5 functionality and that is not deployed primarily for the purpose of providing class 4 or higher switch functionality;
  - c. If the combination is used to originate or terminate traffic on a switch not identified in subsection b above provided that the requesting carrier certifies (1) that the switch is configured to provide local service and (2) that the facility is used to provide local service duly authorized by state law;
  - d. If the combination is used to offer telecommunications services or as an input to advanced services that are not primarily reliant upon the public circuit switched network and that provide connections between two or more locations within the same LATA; or
  - e. If an incumbent LEC offers an access facility (or service with substantially equivalent functionality) to retail customers in a configuration or at price that is otherwise not available to a requesting carrier ordering such facility from the incumbent LEC on a standalone basis on terms and conditions and at prices that are no less favorable than those which are offered to the retail customer.
- (6) *Limited restrictions on conversion of special access arrangements permitted* - Subject to the timelines below, an incumbent LEC may apply use restrictions on conversions of network elements used to provide functionality equivalent to special access services in circumstances not governed by sections 4 and 5 above. Such restrictions shall be limited in duration as follows.
- a. Commencing one year after an incumbent LEC has been authorized to provide interLATA services in a state or the effective date of this rule, whichever is later, a requesting carrier may request conversion of up to half of its existing special access arrangements in that state that are not governed by sections 4 and 5 of this rule to combinations of unbundled network elements at TELRIC-based rates.
  - b. Commencing two years after an incumbent LEC has been authorized to provide interexchange services in a state or the effective date of this rule, whichever is later, it shall cease imposing use restrictions on any unbundled network elements, or combinations of such elements, used to provide functionality equivalent to special access services and shall, upon request,

promptly convert any such arrangements to combinations of unbundled network elements at TELRIC-based rates.

(7) *Limitation on termination liabilities –*

- a. Where a requesting carrier previously purchased a special access arrangement that imposed specified monetary purchase commitments or commitments to use specified facilities or to purchase specified volumes of facilities, and such special access arrangements are converted to unbundled network elements under the terms of sections 4 through 6 above, all amounts paid for, and all facilities used as or in connection with, unbundled network elements that (1) replace the affected special access arrangements, or (2) are newly ordered by the requesting carrier and would have been required by the incumbent LEC to be purchased as special access services prior to the effectiveness of this rule, shall be counted in determining compliance with such commitments.
- b. Incumbent LECs shall not impose termination liabilities, including liability with respect to specified monetary purchase commitments or commitments to use specified facilities or specified volumes of facilities, under special access arrangements appearing in contracts or tariffs on requesting carriers that convert pre-existing special access arrangements to unbundled network elements if the liabilities are associated with the requesting carrier's failure to continue to purchase special access services that have been converted to unbundled network elements pursuant to sections 4, 5 or 6b above.
- c. Any termination liabilities, including liability with respect to specified monetary purchase commitments or commitments to use specified facilities or specified volumes of facilities, under special access arrangements appearing in contracts to tariffs that are associated with a requesting carrier's failure to continue to purchase unbundled network elements in any state pursuant to section 6a above shall be reduced by 50% with respect to any purchase or conversion made between one and two years after the incumbent LEC has obtained authorization to provide interexchange services in that state or the effective date of this rule, whichever is later.

(8) For all facilities or combinations qualifying for use as unbundled network elements under sections 3 through 6 above, the incumbent LEC shall not:

- a. Impose any operational, procedural or ordering requirements that would impede a requesting carrier's ability to order and/or promptly convert facilities to unbundled network elements, including but not limited to
  - i. The failure to offer a mass migration, "records-only" ordering process for converted facilities;
  - ii. Any requirement that a requesting carrier must place more than one order to order or convert a single combination, or that a requesting carrier may not include more than one specific combination in a single order; and
  - iii. The failure to permit any requesting carrier to order or convert a single combination using an access service request.
- b. Physically modify an existing circuit except with express permission of the requesting carrier;
- c. For converted facilities, delay implementation of TELRIC pricing more than five (5) business days from the receipt of a requesting carrier's identification of facilities and request for conversion;
- d. Apply charges for any conversion that exceed TELRIC-based costs;
- e. Require more than self-certification by the requesting carrier that the facilities meet the conditions set forth in 4 or 5 above, or limit the manner in which the requesting carrier designates facilities for conversion pursuant to 6 above;
- f. Provide loop-transport combinations, including associated multiplexing, to requesting carriers at performance levels (including ordering, provisioning, maintenance and repair intervals) that are less favorable than those applicable to special access services providing comparable functionality; or
- g. For conversions, fail to provide the same protocols for maintenance and repair of network elements as are used to provide the service being replaced, including without limitation, reporting mechanisms and response times.